

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	
)	CRIMINAL NO. 2:05-CR-119-MEF
DON EUGENE SIEGELMAN)	
PAUL MICHAEL HAMRICK)	
GARY MACK ROBERTS, and)	
RICHARD M. SCRUSHY.)	

MOTION FOR LEAVE OF COURT TO FILE OUT OF TIME
GOVERNMENT’S MOTION *IN LIMINE* TO BAR DEFENDANTS
FROM PRESENTING TESTIMONY OR EVIDENCE CONCERNING
ALLEGED POLITICAL MOTIVATION FOR THE PROSECUTION
AND SUPPORTING MEMORANDUM OF LAW

The United States of America, by and through Louis V. Franklin, Sr., Acting United States Attorney for the Middle District of Alabama in this case, respectfully moves this Honorable Court for leave to file, out of time, the attached Government’s Motion *in Limine* to Bar Defendants from Presenting Testimony or Evidence Concerning Alleged Political Motivation for the Prosecution and Supporting Memorandum of Law. As grounds for this motion, the United States submits the following:

1. By Order dated Jan 23, 2006 (Doc. # 102), the Court established a deadline for motions *in limine* of April 3, 2006. Three things have occurred since the deadline necessitating the filing of the attached government’s motion *in limine* out of time.

2. First, on the date of the deadline, to-wit: April 3, 2006, defendant Don Eugene Siegelman filed proposed voir dire in the case. Included in his proposed voir dire were questions confirming that defendant Siegelman intends to interject political issues into the trial of this public corruption case. For example, the proposed voir dire asks if anyone believes that prosecutions that

are “purely political” are okay. Defendant Siegelman’s proposed voir dire questions, not seen until the date motions *in limine* were due, created the need for the government’s out-of-time motion *in limine*, seeking to preclude the defendants and their witnesses from presenting at trial evidence, testimony and argument regarding politics and the alleged political motivations behind this public corruption case.

3. Second, on April 5, 2006, the Honorable Charles S. Coody, United States Magistrate Judge, entered an Order on defendant Siegelman’s Motion for Issuance of Subpoenas *Duces Tecum* to Republican Governors Association, Mississippi Band of Choctaw Indians, Capitol Campaign Strategies, and the Republican National State Elections Committee, filed herein on March 17, 2006. The motion sought the issuance of subpoenas for the production of various documents from these entities, particularly those related to alleged 2002 campaign contributions to Governor Riley and other documents relating to Michael Scanlon and Jack Abramoff. Judge Coody held that the defendant had failed to establish the relevancy, admissibility and specificity required to entitle him to the subpoena, but noted that denial of defendant’s motion does not preclude him from seeking trial subpoenas to acquire the same documents. Judge Coody’s April 5 ruling highlighted the need for the government’s motion and the need for immediate resolution, in advance of trial, of issues concerning the admissibility of evidence concerning politics, 2002 campaign contributions to Governor Riley, or any purported ties to Scanlon or Abramoff.

4. Thereafter, on April 6, 2006, the U.S. Attorney’s Office received a copy of a FOIA request seeking from the Department of Justice all documents relating to the recusal of U.S. Attorney Leura Canary from investigations concerning State of Alabama employees or former employees. Recognizing that the defendants may be seeking these documents to use at trial, receipt of the FOIA request on April 6 again signaled to the government the need for this out-of-time motion *in limine*

to preclude the defendants from interjecting irrelevant and misleading arguments as to political motivations of a recused U.S. Attorney and/or her husband into the trial of this public corruption case.

5. For many months, defendant Siegelman has been accusing the prosecutors of a political witch hunt in the press. However, events since the passage of the motion *in limine* deadline have suggested that defendant Siegelman or the other defendants may seek to interpose political issues in the trial of this case. For the reasons set forth in the government's attached motion *in limine* and supporting memorandum of law, these issues are irrelevant and inadmissible. It would be in the interest of judicial economy and the parties to resolve the issue of the admissibility of this evidence, testimony and argument in advance of trial.

WHEREFORE, THE PREMISES CONSIDERED, the United States respectfully seeks leave of this Honorable Court to file the attached motion *in limine* and supporting memorandum of law out of time.

Respectfully submitted this the 14th day of April, 2006

LOUIS V. FRANKLIN, SR.
ACTING UNITED STATES ATTORNEY

ANDREW C. LOURIE
ACTING CHIEF, PUBLIC INTEGRITY
SECTION

/s/ Louis V. Franklin, Sr.
Acting United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7560
Email: louis.franklin@usdoj.gov

/s/Richard C. Pilger
Department of Justice, Criminal Division
Public Integrity Section
10th & Constitution Ave, NW
Bond Building - 12th Floor
Washington, DC 20530
Phone: (202)514-1412
Fax: (202)514-3003
Email: richard.pilger@usdoj.gov

J.B. Perrine
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7135
Email: jb.perrine@usdoj.gov
ASB-9077-E31J

/s/ Jennifer Garrett
Special Assistant United States Attorney
Assistant Attorney General
Office the Attorney General
11 S. Union
Montgomery, AL 36130
Phone: (334)353-8494
Fax: (334)242-4890
Email: jgarrett@ago.state.al.us
ASB-4600-T77J

/s/ Stephen P. Feaga
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7560
Email: steve.feaga@usdoj.gov
ASB-7374-A60S

/s/ Joseph L. Fitzpatrick, Jr.
Special Assistant United States Attorney
Assistant Attorney General
Office of the Attorney General
11 S. Union
Montgomery, AL 36130
Phone: (334)353-4839
Fax: (334)242-4890
Email: j.fitzpatrick@ago.al.state.us

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

LOUIS V. FRANKLIN, SR.
ACTING UNITED STATES ATTORNEY

/s/ J.B. Perrine
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334) 223-7280
Fax: (334) 223-7135
E-mail: jb.perrine@usdoj.gov
ASB-9077-E31J